

Message

From: Anderson, RobinM [Anderson.RobinM@epa.gov]
Sent: 7/22/2019 6:57:50 PM
To: Gaines, Linda [Gaines.Linda@epa.gov]
Subject: RE: What is a "pollutant or contaminant"?

agreed

-----Original Message-----

From: Gaines, Linda
Sent: Monday, July 22, 2019 1:49 PM
To: Anderson, RobinM <Anderson.RobinM@epa.gov>; Libelo, Laurence <Libelo.Laurence@epa.gov>
Subject: RE: What is a "pollutant or contaminant"?

I haven't looked at that many RODs in my time, but I don't think we generally ever specify if a contaminant is a hazardous substance or a P&C. They just calculate risk based which contaminants that are found at the site have a toxicity value. Then they look at ARARs. If we are going off of which ones have toxicity values, it is PFOA, PFOS, and PFBS.

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-----Original Message-----

From: Anderson, RobinM
Sent: Monday, July 22, 2019 1:40 PM
To: Libelo, Laurence <Libelo.Laurence@epa.gov>
Cc: Gaines, Linda <Gaines.Linda@epa.gov>
Subject: RE: What is a "pollutant or contaminant"?

If and when it happened it would be documented in a ROD/or Action Memo. The few RODs/Action Memos where we have addressed PFAS (Linda Gaines knows which ones of these) we could look to see what was said. But it is my understanding that we have only used our slope factors and HAS - if we don't have that we have not gone further for any of the others PFAS compounds. Therefore - this eliminate most all PFAS with the exception of the hanfill we have a tox value and HA value that we in Superfund have accepted.

Re other non PFAS contaminants -- It would take going through a very detailed, labor intensive search of RODs to see when this has been done for other P&Cs. I recall that it has for other contaminants -- just don't have knowledge of which ones or what sites.

-----Original Message-----

From: Libelo, Laurence
Sent: Monday, July 22, 2019 10:20 AM
To: Anderson, RobinM <Anderson.RobinM@epa.gov>; Gaines, Linda <Gaines.Linda@epa.gov>
Subject: RE: What is a "pollutant or contaminant"?

How is this determine this? Do we make a formal declaration? How is it documented? Have any PFAS been subject to a determination?

-----Original Message-----

From: Anderson, RobinM
Sent: Monday, July 22, 2019 10:02 AM
To: Libelo, Laurence <Libelo.Laurence@epa.gov>; Gaines, Linda <Gaines.Linda@epa.gov>
Subject: RE: What is a "pollutant or contaminant"?

All the PFAS are "potential" pollutants or contaminants. They need to be determined that they "may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring."

and we havenot made that determination either nationally or on a site-specific basis.

-----Original Message-----

From: Anderson, RobinM
Sent: Monday, July 22, 2019 9:59 AM
To: Libelo, Laurence <Libelo.Laurence@epa.gov>; Gaines, Linda <Gaines.Linda@epa.gov>
Subject: RE: What is a "pollutant or contaminant"?


So while all of the PFAS compounds are not Hazardous substances -- only if "may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring.."

-----Original Message-----

Good morning Linda and Robin,

(33) The term "pollutant or contaminant" shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring; except that the term "pollutant or contaminant" shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs

From: Hovis, Jennifer
Sent: Friday, July 19, 2019 9:54 AM
To: Libelo, Laurence <Libelo.Laurence@epa.gov<mailto:Libelo.Laurence@epa.gov>>
Subject: FW: FOR RESPONSE by MONDAY COB -- HEC PFAS TA question
Importance: High



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From: Keller, Melanie
Sent: Friday, July 19, 2019 8:32 AM
To: Woolford, James <Woolford.James@epa.gov><mailto:Woolford.James@epa.gov>; Stalcup, Dana <Stalcup.Dana@epa.gov><mailto:Stalcup.Dana@epa.gov>
Cc: Lowery, Brigid <Lowery.Brigid@epa.gov><mailto:Lowery.Brigid@epa.gov>; Healy, Helena <Healy.Helena@epa.gov><mailto:Healy.Helena@epa.gov>; Hovis, Jennifer <Hovis.Jennifer@epa.gov><mailto:Hovis.Jennifer@epa.gov>
Subject: Re: FOR RESPONSE by MONDAY COB -- HEC PFAS TA question

Melanie C. Keller

Good morning,

HEC has raised the following question about PFAS as a "pollutant or contaminant" under CERCLA 101 (33).

Is OSRTI the best office to handle this question, or is it another OLEM office? Also, if we're getting into statutory definitions, my gut says we pull in OGC too. Thoughts???

This isn't "urgent" per se, but we need to keep this moving because there is a slim possibility that meetings to resolve the NDAA bills may occur before the August recess (begins July 27).

QUESTION:

Does the Agency consider one or more PFAS substances a "pollutant or contaminant" as defined in section 101(33) of CERCLA? If so, which PFAS substances does the Agency consider to meet this definition?

Thank you for your time and response,
Melanie

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